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05ben@HomebuyerRepresentation.com
Sent: Thursday, November 03, 2005 12:02 AM
To: ATR-Real Estate Workshop
Subject: Competition Policy and the Real Estate Industry

To: The Federal Trade Commission and the United States Department of Justice

Please read the following paragraphs from what I believe is previous comment on the NAR issue. My remarks follow.

>>> Policies restricting the practices of so-called limited-service real estate companies have been misconstrued as restraining trade, said Kurstin Johnson, owner of Vista Encantada Realtors in Albuquerque, N.M., in her comments. "the issue is not restraint of trade, but of liability. Limited service companies blur the line of representation, therefore creating huge liability for the agent representing the buyer."

>>> She added, "By simply putting the listing in the MLS and leaving the seller to do everything else including negotiating the purchase agreement directly with the buyer's Realtor, he puts the buyer's Realtor in a very bad position. I don't think there is anything wrong with restricting a trade practice which is dangerous to the public."<<<

Dear Sirs,

I would like to ask why it is OK for a Listing Brokerage to trap Buyers into a Limited Agency situation, which they would not elect to be in, while at the same time saying that the Seller who CHOOSES to be non-represented by a professional real estate agent is "a trade practice which is dangerous to the public." Limited (or Dual) Agency also "Blurs the line of representation and is dangerous to the public."

For the record, I own a brokerage that does not list properties for sale in the MLS. We represent homebuyers only. I have closed a number of transactions with Sellers who were selling by owner and see nothing different about working with a By Owner Seller whose home is listed on the MLS than working with a Seller who simply has a sign in their yard.

I work in Utah where a minimum standards law just went into effect this year. I DO see this as restraint of trade and an elimination of choice to the public. The public should be allowed to contract for whatever level of service they choose to contract for. If that means the ONLY service they would like to have is a listing in the MLS, it should be their right to contract for that service only.

(As a side note, I believe there is a conflict of interest for the President of the National Association of Realtors to have been a State Legislator who had a lot to do with getting the minimum standards passed in Utah.)

Because the public generally only thinks about real estate when they are doing it (about every 7, I believe) there may not be a huge outcry because not everybody is currently involved in the process. This gives NAR an unfair advantage in promoting unfair practices.

I have been told that in order for my brokerage to participate in the local MLS we HAVE to be dues-paying members of the REALTOR associations. I do not mind being a REALTOR because for the most part, what is in the REALTOR Code of Ethics and Standards of Practice is beneficial to the consumer. I do understand, however, that not all local boards, and at times even the national board does not follow their own rules as written. They are

self-policing and that is where the largest problems lie.

NAR says it welcomes new business models and new business practices. It says it promotes the interest of the public. It says many things and in many cases does another. All while having no oversight.

It appears to me that NAR is not really about giving the consumer choice, but about telling the consumer which choices they can have.

I was under the impression that in America one could contract for whatever level of service the two parties agreed to.

Thank you for your time.

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